

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: IRWIN JACOBOWITZ
PEARL H. JACOBOWITZ

Debtors

CIVIL ACTION NO. 3:08-CV-1264

(JUDGE CAPUTO)

ORDER

NOW, this 11th day of July, 2008, since an appeal from the bankruptcy court to the district court "shall be taken in the same manner as appeals . . . are taken to the court of appeals from the district courts", 28 U.S.C. § 158(c)(2), and since Fed. R. App. P. 24(a)(1) requires that one who desires to appeal from a district court to the court of appeals *in forma pauperis* must present the motion to proceed *in forma pauperis* in the district court, a motion to proceed "*in forma pauperis* in an appeal from the bankruptcy court to the district court should be made first to the bankruptcy court for determination." *In re Kirby*, 1993 WL 340986, at *1 (citing *In re Moore*, 86 B.R. 249, 250 (Bankr. W.D.OKla.1988)).

NOW, THEREFORE, IT IS HEREBY ORDERED that this matter is recommitted to the bankruptcy court to determine whether the debtors can proceed on this appeal *in forma pauperis*.



A. Richard Caputo
United States District Judge